

Message Text

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PAGE 01 MANAGU 00131 121344Z

44

ACTION SCA-01

INFO OCT-01 ARA-06 ISO-00 SCS-03 L-03 H-02 DHA-02 SS-15

NSC-05 EB-07 COME-00 CIAE-00 INR-07 NSAE-00 OPIC-03

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R 092243Z JAN 76

FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC 8798

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EO 11652: N/A

TAGS: BPRO, EINV, NU

SUBJECT: GAS POPULAR

REF 75 MANAGUA 4949

1. RALPH MOYER, AMCIT PRESIDENT OF GAS POPULAR, WAS ARRESTED JANUARY 8 ON WARRANT ISSUED BY A CRIMINAL COURT ON A CHARGE OF FRAUD BROUGHT BY PERSONS CLAIMING TO BE EX-EMPLOYEES OF THE FIRM. IT APPEARED THAT THE JUDGE WOULD ORDER HIS DETENTION FOR TENNKIR DURING AN INVESTIGATION OF THE CASE. MOYER IS ELDERLY (71) AND ACCORDING TO HIS WIFE IS UNDER MEDICATION. THE AMBASSADOR, ACCOMPANIED BY DCM, DISCUSSED CASE WITH PRESIDENT SOMOZA WHO ORDERED MOYER'S RELEASE ON MEDICAL GROUNDS WHILE INVESTIGATION IS UNDERWAY. MOYER SPENT ABOUT FOUR HOURS UNDER CUSTODY, PART OF THIS BEFORE THE CRIMINAL COURT, BUT WAS NEVER ACTUALLY JAILED.

2. THE AMBASSADOR TOLD PRESIDENT SOMOZA THAT IN ADDITION TO OUR NORMAL CONCERN ABOUT THE ARREST OF AN AMERICAN CITIZEN, ESPECIALLY ONE WHO COULD NOT STAND THE RIGORS OF PROLONGED DETENTION, WE WERE AWARE THAT MOYER IS ACCUSING A STATE AGENCY (INFONAC) OF DISPOSSESSION OF GAS POPULAR'S ASSETS WITHOUT COMPENSATION AND HAD WRITTEN TO CONGRESSMEN AND STOCKHOLDERS IN THE US. HIS JAILING, THOUGH UNCONNECTED

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PAGE 02 MANAGU 00131 121344Z

TO HIS PROBLEMS WITH INFONAC, MIGHT PROVE TO BE

EMBARRASSING TO THE GON IN THESE CIRCUMSTANCES.

3. IN DISCUSSION OF THE GAS POPULAR CASE, PRESIDENT SOMOZA POINTED OUT TO THE AMBASSADOR THAT IT WAS A PANAMANIAN REGISTERED CORPORATION, ALBEIT OWNED BY US CITIZENS, AND HE MILDLY QUESTIONED WHETHER THE US EMBASSY SHOULD BE INVOLVED RATHER THAN THE PANAMANIAN EMBASSY IN PROTECTION OF ITS INTERESTS. 10 FAM 988 STATES IT IS US MISSION RESPONSIBILITY TO PROTECT THE LEGITIMATE PROPERTY INTERESTS OF US NATIONALS OR FIRMS OPERATING ABROAD. SINCE MOYER ALLEGES THAT GAS POPULAR IS 451 PERCENT OWNED BY AMCITS, IT IS PROPERTY US NATIONALS EVEN THOUGH REGISTERED IN THIRD COUNTRY. WE HAVE, THEREFORE, ASSUMED THAT WE DO HAVE A RESPONSIBILITY. HOWEVER, WE WOULD LIKE THE DEPARTMENT TO GIVE US A DIRECT INSTRUCTION CONCERNING OUR RESPONSIBILITIES IF, AS MOYER ALLEGES, THE COMPANY IS OWNED BY US CITIZENS. MOYER SAID HE WOULD ASK SHAREHOLDERS FOR APPROVAL TO GIVE US THEIR NAMES AND HOLDINGS IN ORDER TO CONFIRM THIS POINT.

4. PRESIDENT OF INFONAC DONALD SPENCER CALLED ON AMBASSADOR TO GIVE HIM LETTER ON AGENCY'S POSITION, WHICH IS THAT MOYER IS EMBARKED ON A DEFAMATORY CAMPAIGN AGAINST INFONAC. LETTER STATES GAS POPULAR DEEPLY IN DEBT TO INFONAC WHICH WAS FORCED TO EMBARGO COLLATERAL TO ENSURE GAS DELIVERIES AFTER OTHER CREDITORS HAD MOVED AGAINST COMPANY. WE ARE POUCHING A COPY OF THE LETTER TO ARA/CEN.

5. IN LENGTHY DISCUSSION WITH SPENCER WE POINTED TO WHAT WE REGARD AS ESSENTIAL CORE OF MOYER'S COMPLAINT - THAT INFONAC HAS NOT PAID FOR GAS AT VALUE SET IN CONTRACT. WE HAD NO INTENTION OF TRYING TO INTERPRET THE CONTRACT. HOWEVER, MOYER DID GIVE US A COPY OF A LETTER TO GAS POPULAR FROM

INFONAC DATED JANUARY 15, 1975 THAT SEEMED TO ACCEPT MOYER'S INTERPRETATION OF THE RELEVANT ARTICLE IN THE CONTRACT THAT THERE QS#

AID TO GAS POPULAR, INCLUDING SERVICE COSTS, WOULD BE INCREASED PROPORTIONATELY TO THE INCREASE IN COST OF OSGAS AT SOURCE. SPENCER SAID THAT INFONAC HAD NOT PAID LIMITED OFFICIAL USE

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PAGE 03 MANAGU 00131 121344Z

INCREASED SERVICE COST WHICH RIBEEN ORIGINALLY SET AT C\$1.73 A GALLON AND MAINTAINED AT THAT RATE FOR MANY YEARS. HE SAID INFONAC WAS WILLING TO NEGOTIATE DIRECTLY OR ARBITRATE THIS QUESTION OF COST WITH GAS POPULAR.

6. WE HAVE DISCREETLY ENCOURAGED INFONAC AND MOYER TO CONSIDER THE POSSIBILITY OF NEGOTIATION OR ARBITRATION OF THEIR DIFFERENCES. IF CARRIED OUT IN GOOD FAITH OF BOTH

PARTIES, IT MIGHT EFFECTIVELY RETURN THIS CASE TO PURELY
COMMERCIAL CHANNELS.
THEBERGE

NOTE BY OC/T: TEXT AS RECEIVED.

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